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Fifty-first session
SIXTH COMMITTEE
Agenda item 120

HUMAN RESOURCES MANAGEMENT

Letter dated 12 November 1996 from the Chairman of the Sixth Committee to the President of the General Assembly

I have the honour to attach a communication from the Sixth Committee regarding agenda item 120, Human resources management, which was allocated by the General Assembly to the Fifth Committee on the understanding that the Sixth Committee would examine the legal implications of the proposals of the Secretary-General contained in his reports on the reform of the internal system of justice in the Secretariat (see annex).

(Signed) Ramón ESCOVAR-SALOM
Chairman,
Sixth Committee
of the General Assembly

ANNEX

Communication from the Sixth Committee regarding the legal implications of the reform of the internal system of justice of the Secretariat (agenda item 120)

Reference is made to agenda item 120, Human resources management, which was allocated by the General Assembly to the Fifth Committee on the understanding that the Sixth Committee would examine the legal implications of the proposals of the Secretary-General contained in his reports on the reform of the internal system of justice in the Secretariat.

The Sixth Committee discussed the item at its 7th meeting, on 30 September, and its 9th meeting, on 1 October 1996. At the 7th meeting, the Under-Secretary-General for Administration and Management presented the proposals, mentioning that there was widespread dissatisfaction with the existing system of justice, which had been established many years earlier and was inadequate in current circumstances. The proposals were aimed at achieving a just, transparent, simple, impartial and efficient system. He referred to measures to promote early reconciliation of disputes and to professionalize the consideration of appeals and disciplinary cases. He spoke of the proposals to replace the Joint Appeals Board by an arbitration board and the Joint Disciplinary Committee by a disciplinary board and mentioned that a limited number of administrative measures had already been introduced.

After this presentation, the Under-Secretary-General and the Deputy to the Legal Counsel made themselves available for a question and answer session. Questions were posed by 10 delegations on such matters as the legal basis of the proposals; what other reforms had been considered; whether staff members would have a choice between different procedures in the early stage; the method of appointment of arbitrators and their status; the status of disciplinary board members; the likely effect of centralization of the system with regard to delays in procedures; and what action had been taken to avoid misunderstandings between staff members and their supervisors.

Following the presentation and the question and answer session, the proposals were debated at the 9th meeting of the Committee, on 1 October. There were nine interventions in the debate, including one made during the 7th meeting. One of the interventions was supported by 25 Member States.

All the speakers indicated, whether expressly or by implication, support for reform of the internal system of justice. The objective was described as that of putting in place a system that would be simple, open, efficient and expeditious. Several speakers referred to positive elements in the proposals. Among those mentioned were proposals to avoid problems through, inter alia, improvements in communications and exchanges of information; facilitation of resolution of problems prior to the litigation stage through, for instance, mediation and ombudsman procedures, appointments of an ombudsman coordinator and of a Legal Officer to the Panel of Counsel, improved review procedures, procedures for settlement of small claims, arrangements for specialist training and professionalization of the system.

Many of the critical comments related to the proposals to replace the Joint Appeals Board and the Joint Disciplinary Committee, although there was also support for them. The contention that participation of members elected by the staff to those bodies was a source of inefficiency and delay, because not enough staff members were available for the task and they frequently lacked the necessary capacity or objectivity, was disputed and the validity of that contention as a reason for replacing those bodies was rejected.

With regard to the proposal to replace the Joint Appeals Board by an arbitration board, it was contended that arbitration as a system depended on a background of equality between the parties. This was absent from the relations between the Administration and the staff in that, inter alia, the applicable rules and regulations were already determined; the procedure for choice of arbitrators was not evenly balanced, with consequent concerns about their independence and perceptions as to their impartiality; and the Secretary-General was responsible, under the Charter, for administrative and disciplinary decisions and accountable to the Member States in respect of them.

The proposal for arbitration boards was also criticized for other reasons. Serious doubts were expressed about the recruitment of arbitrators from outside the United Nations because they would lack the benefit of familiarity with the special regime pertaining to United Nations staff. The adequacy of a two section arbitration board to deal with the existing backlog of problems and to keep up to date with the regular flow of problems was raised and cost projections were questioned in that respect. Concern was also expressed as to whether there were adequate arrangements for legal representation of staff members. Delegations also drew attention to the reservations expressed by the Advisory Committee on Administrative and Budgetary Questions with regard to the proposed arbitration board.

The proposal for replacement of the Joint Disciplinary Committee by a disciplinary board drew expressions of doubt about the desirability of the externally recruited arbitrators acting as chairpersons of the board. There was an objection to the proposal that staff members should be selected for the board, rather than elected, as was the case with the Committee.

It was suggested that the role of the Administrative Tribunal should also be considered in the context of the reform.

Some delegations favoured a general deferral of the reform proposals for reflection and further consultation with the staff. One delegation suggested by way of a counterproposal that the consultative processes should be strengthened so that consultation would precede administrative decisions and that the authority of the judgements of the Administrative Tribunal should be enhanced vis-à-vis the Administration by, inter alia, requiring qualifications for election as judges, defining the Tribunal's jurisdiction more clearly and extending the scope of the decisions available to it. There was no discussion on this proposal.

At the end of the debate, the Committee was addressed on the item by Mr. Luís de Posadas Montero, Senior Vice-President of the Administrative Tribunal.

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PROGRAMME PLANNING

Programme 4 (Legal affairs) of the proposed medium-term plan for the period 1998-2001

Letter dated 12 November 1996 from the Chairman of the Sixth Committee to the President of the General Assembly

I wish to refer to the letter dated 26 September 1996 from the Chairman of the Fifth Committee (A/C.6/51/2) requesting the views of the Sixth Committee on programme 4 (Legal affairs) of the proposed medium-term plan for the period 1998-2001.

Having drawn the attention of the Sixth Committee and its various regional groups to this matter, I am attaching herewith the views transmitted to me by a number of States, namely, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom of Great Britain and Northern Ireland (European Union), Costa Rica and Cuba.

(Signed) Ramón ESCOVAR-SALOM
Chairman
Sixth Committee of the
General Assembly

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Annex

VIEWS OF THE SIXTH COMMITTEE ON PROGRAMME 4 (LEGAL AFFAIRS) OF THE PROPOSED MEDIUM-TERM PLAN FOR THE PERIOD 1998-2001

Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland (European Union)

[Original: English]

[5 November 1996]

1. The European Union would like to reiterate what its representative indicated in this context in the Fifth Committee, that the promotion of justice and international law must be a priority objective for the United Nations. Subprogramme 4.3 is directly relevant to this objective. In this context, the Union would like to stress the importance of the efforts aimed at the establishment of an international criminal court. It believes that all possible support of the nature envisaged in paragraph 4.16 of the document is essential to secure the successful completion of this undertaking.

2. The European Union recalls that the President of the International Court of Justice, speaking in the General Assembly on 15 October 1996, on the occasion of the consideration of the Court's report, indicated that the financial situation of the Court was such that it seriously imperilled the very discharge of its duties by this principal judicial organ of the United Nations. He drew attention to the treatment of this question in chapter IV of the Court's report.

3. It is the strong view of the European Union that all necessary measures must be taken to ensure that the Court will have sufficient means to enable it to carry out its functions adequately in conformity with its rules of procedure, including those which require that the submissions of the parties are translated into the working languages of the Court. In this respect, it would appear unrealistic, in the light of the very limited resources allocated to the Court, to suggest that the funding of the requisite translation work can be met by internal redeployment. The European Union is of the belief that this situation is urgent and calls for appropriate budgetary measures.

4. In the context of subprogramme 4.1 (Overall direction, management and coordination of legal advice and services to the United Nations as a whole) the European Union refers to paragraph 4.9 and expresses its belief that the conclusion of status-of-forces agreements in connection with United Nations peacekeeping missions should be identified as an important objective of this subprogramme.

5. With regard to subprogramme 4.5, the European Union attaches particular importance to the objective set out in paragraph 4.29 to monitor the work of other international organizations active in international trade law so as to avoid duplication in their activities and to prevent inconsistencies in the results of their work.

6. The European Union refers to paragraph 4.4 (f) of document A/51/61 (Prog. 4) regarding the preparation of the Repertory of Practice of United Nations Organs and urges that the necessary steps be taken to ensure the timely publication of this document from now on and to eliminate the existing backlog in publication.

7. The European Union would also like to call the attention of the Fifth Committee to the sharp increase in the workload of the Office of Legal Affairs, which, despite maintaining virtually the same staffing level for 12 years, has had to deal with legal arrangements for peacekeeping operations, the setting up of the ad hoc war crimes tribunals, the servicing of an increasing number of meetings of various legal bodies and the computerization and updating of various publications, among many other new tasks (see A/51/6 (Prog. 4)).

8. Furthermore, the European Union expresses its concern about this situation, bearing in mind that this work is fundamental to the whole Organization and that the high quality with which it has been performed is due to the commitment and efficiency of the personnel of the Office of Legal Affairs.

## Costa Rica

[Original: Spanish]

[5 November 1996]

1. Firstly, Costa Rica wishes to express its satisfaction at the initiation of the consultative process for the formulation of the medium-term plan, agreed in General Assembly resolution 41/213 of 19 December 1986, which, with the initiation of systematic consultations with sectoral and technical bodies of the United Nations, will allow the experts directly involved in programme implementation to give constructive expression to their views and for these views to be considered when making budgetary allocations.

2. With respect to the proposed medium-term plan, Costa Rica attaches the highest priority to the codification and progressive development of international law being undertaken by the United Nations. In this regard Costa Rica considers that subprogramme 4.3 should be strengthened. The availability of adequate resources for functions in support of activities relating to the codification of international law must be guaranteed. The broad availability of conference services is essential, in particular, to the preparatory work for an international criminal court and the work of the Sixth Committee. Support for International Law Commission activities must not, however, be reduced. Further, Costa Rica considers that assistance to developing countries in the form of grants, seminars and legal publications intended specifically for their nationals must be expanded.

3. The priority attached by Costa Rica to subprogramme 4.4 (Law of the sea and ocean affairs) is immediately below that accorded to subprogramme 4.3. Promotion of the universal acceptance of the United Nations Convention on the Law of the Sea of 10 December 1982, and of the Agreement in implementation of the provisions of the United Nations Convention on the Law of the Sea at

10 December 1982 on the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as functions relating to advice, analysis and deposit of instruments, are essential to the proper maintenance of the legal regime for the seas and the proper utilization of their resources. Equally, it is of great importance to ensure the continued presence of the United Nations at meetings of States parties to the Convention, the International Seabed Authority and the International Tribunal for the Law of the Sea.

4. Costa Rica accords the next level of priority to subprogramme 4.6 (Custody, registration and publication of treaties). The function of depositary and information centre for treaties fulfilled by the United Nations is extremely useful to developing countries. In this regard the backlog in the issuance of treaties must be eliminated and more effective ways found of distributing information.

5. Lastly, Costa Rica views with concern the secondary role assigned to the activities of the International Court of Justice and the related Secretariat support. The Secretariat must give the greatest possible support to the work of the International Court of Justice and, if possible, promote and facilitate the use of this instrument in the peaceful settlement of disputes.

## Cuba

[Original: English]

[11 November 1996]

1. Cuba considers that in the present international juncture the promotion, progressive development and further codification of international law must be priority objectives for the United Nations.

2. An overall objective of programme 4 should be to ensure the rule of law in and through the United Nations. We support the idea that, to this end, the provision of legal services to and liaison between Headquarters and United Nations organs, United Nations offices and field and peacekeeping missions, and the provision of assistance in the teaching, study, dissemination and wider appreciation of international law are of primary importance.

3. In the context of subprogramme 4.1 (Overall direction, management and coordination of legal advice and services to the United Nations as a whole), we advocate the continuing evolution of legal arrangements in support of United Nations efforts not only to maintain international peace and security but also to promote the social and economic development of all countries and the further codification of the right to development.

4. With regard to subprogramme 4.5, the Cuban delegation attaches particular importance to the objective of monitoring the work of international organizations active in international trade law. However, we consider that this monitoring task must be aimed at encouraging the work and contribution of those organizations to the progressive development and codification of international

trade law, and not the opposite, i.e., at imposing conditions to the implementation of the respective mandates and decisions taken by those organizations.

5. The Cuban delegation would also like to call the attention of the Fifth Committee to General Assembly resolution 44/23 of 17 November 1989, by which the United Nations Decade of International Law was proclaimed.

6. We are of the view that that resolution must be reaffirmed and that the Programme for the Decade in all its aspects, including the recommendation of holding a third international peace conference at the conclusion of the Decade on the occasion of the one hundredth anniversary of the first International Peace Conference, must be fully implemented, not only by seeking political commitments on the part of Member States to this objective, but also by means of an appropriate and timely allocation of the resources allocated to the Decade and its Programme in conformity with the mandate given by the enabling resolution.

7. Furthermore, the Cuban delegation would like to share the legitimate concern expressed by some delegations in the Sixth Committee regarding the current situation of the conference services allocated to the Committee, which have been subject to some irregularities that have directly affected the normal functioning and practice of this main Committee.

8. In view of these elements we reiterate the position expressed by our delegation at the first meeting of the Sixth Committee in which the programme of work for the fifty-first session was discussed. In our opinion, the proposed medium-term plan for the period 1998-2001 and its implications in the overall direction, management and coordination of the legal services in the United Nations system as a whole, as well as in the progressive development and codification of international law, should be subject to the necessary debate by Member States in the Sixth Committee.

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